

Department of Labor, Licensing and Regulation



Budget Presentation

SENATE BUDGET AND TAXATION COMMITTEE
SUBCOMMITTEE ON EDUCATION, BUSINESS, & ADMINISTRATION

February 9, 2006

STATE OF MARYLAND
DEPARTMENT OF LABOR, LICENSING AND REGULATION
FISCAL YEAR 2007 BUDGET PRESENTATION

Testimony of James D. Fielder, Jr. Ph.D.
Secretary of Labor, Licensing and Regulation
Thursday, February 9, 2006

SENATE EDUCATION, BUSINESS, AND ADMINISTRATION SUBCOMMITTEE

Accompanied by: Gregory M. Safko, Deputy Secretary
David McGlone, Director, Office of Budget & Fiscal Services

We come before you today to present the Fiscal Year 2007 budget of the Department of Labor, Licensing and Regulation and to respond to the requests and recommendations of the Department of Legislative Services (DLS).

The Department of Labor, Licensing and Regulation is comprised of seven divisions: Office of the Secretary, Division of Financial Regulation, Division of Labor and Industry, Division of Occupational and Professional Licensing, Division of Unemployment Insurance, Division of Workforce Development, and Division of Racing. The Department administers the unemployment insurance program, oversees and coordinates the state's workforce development initiatives, regulates financial institutions, licenses and regulates twenty-one occupations and professions, enforces occupational safety and health laws, wage and hour laws and regulates the racing industry.

The employees of the Department are committed to "safeguarding and protecting Maryland citizens and supporting the economic stability of the State by providing businesses, the workforce, and the consuming public high-quality, customer-focused regulatory, and employment and training services." The Department pursues its mission with a staff of over 1,665 individuals, and is supported by a combination of general, special and federal funding as follows:

2007 Allowance

General Funds	\$ 26,118,101 - 13.4%
Special Funds	\$ 25,583,364 - 13.1%
Federal Funds	\$ 136,202,916 - 70.0%
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<u>Total Funds</u>	<u>\$ 194,684,785</u>

Program Services, Highlights and Statistics

The Department of Labor, Licensing and Regulation is responsible for a myriad of programs that are important to the safety, health and welfare of the citizens of Maryland. Many of these programs, such as the federally funded Unemployment Insurance program and the Workforce Development activities, have continually been top performers nationally. These federally funded activities are essential to the core services offered by the Department, greatly contribute to the welfare of Maryland businesses and workers, and have demonstrated outstanding performance results.

Other services, specifically the Labor and Industry programs (Safety Inspection, Railroad Safety & Health, Occupational Safety & Health, Prevailing Wage and Employment Standards), Financial Regulation activities, and Occupational and Professional Licensing programs are also extremely important to the safety, health and welfare of Maryland citizens (employers, workers and consumers). Consequently, the Divisions of Financial Regulation, Occupational & Professional Licensing, and Labor & Industry provide key core services that are also considered “high priority” activities for the Department. Maintaining adequate staffing and resources for these programs is important so that the long-range program goals and increasing workloads are addressed.

The horseracing operation also offers a valuable service to many businesses, workers, and citizens throughout Maryland. The horseracing industry is important to the economic well being of the State, and the Department’s services are essential to maintaining the integrity of the industry by maintaining safeguards to ensure the safety of the participants and the confidence of the betting public.

The Department achieved a number of significant accomplishments during the past year that provide evidence of effective and efficient delivery of services. Some of these initiatives and activities, which demonstrate the breadth of the Department’s responsibility, attainment and future direction, are highlighted below:

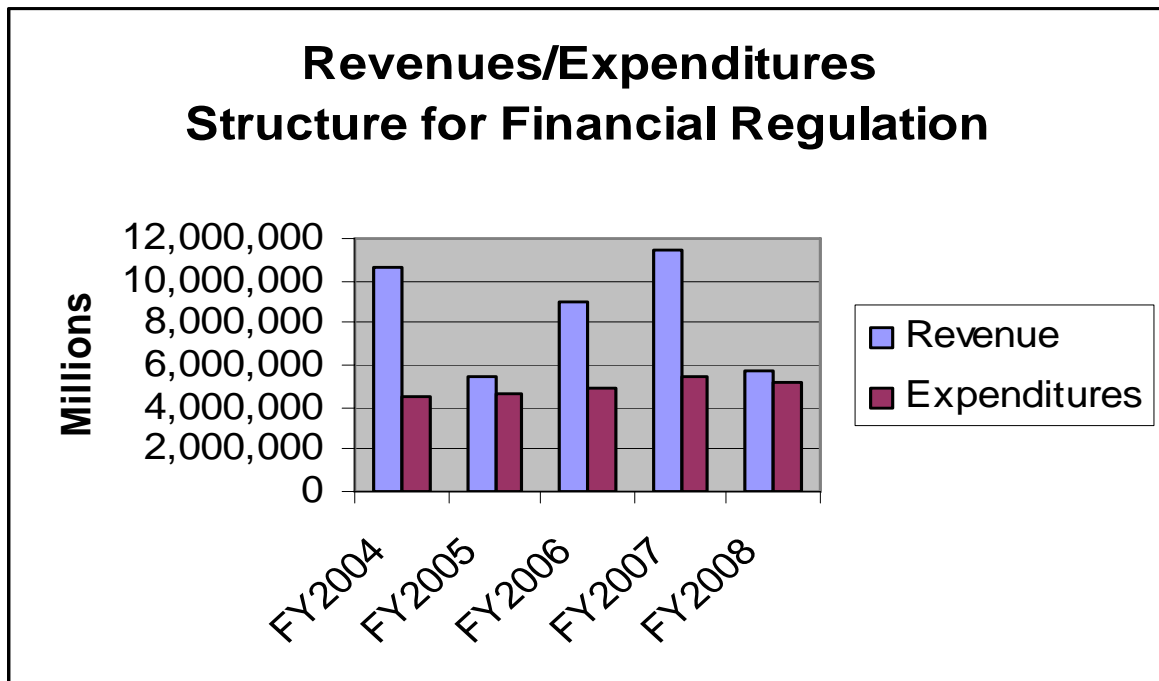
Financial Regulation

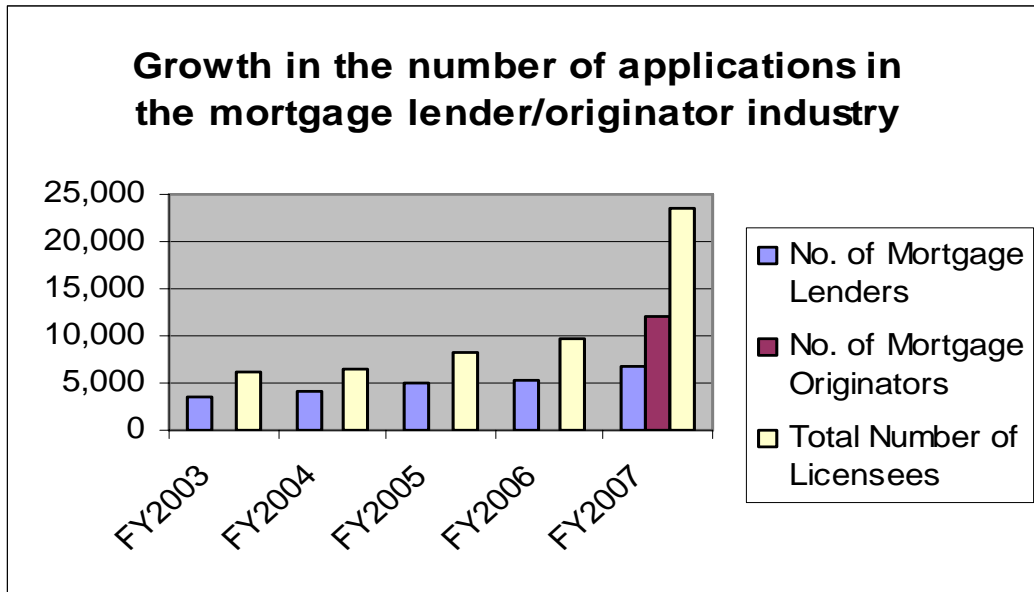
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- The Division of Financial Regulation has increased its investigative and enforcement efforts resulting in stronger protection for Maryland citizens against fraudulent or deceptive business practices in Maryland’s financial industries. During Fiscal Year 2005, the Division **recovered \$1.7 million in refunds** for consumers who were overcharged for regulated financial services.

- In Fiscal Year 2005, there were **56 State chartered commercial banks and savings banks** with **707 total branches**. Through monitoring and assessment of each institution's risk profile, the Office is able to ensure a more safe and sound banking environment within the state of Maryland.
 - **98% of the banks** examined by the Office received a performance **rating of strong or satisfactory**.
 - **Total assets of State-chartered banks increased from \$33.3 billion to \$37.2 billion.**
- The Division of Financial Regulation has begun to implement the “**Mortgage Originator Law**” which became effective on October 1, 2005. The Mortgage Originator Bill, through newly granted special fund authority, requires the Commissioner of Financial Regulation to **license and regulate over 12,000 mortgage loan officers** throughout the State. The Division received eight additional positions in Fiscal Year 2006 to begin implementing the Mortgage Originator Law.

The Commissioner's Office is a self-supporting unit of State Government. Although the Office receives a general fund appropriation, its programs generate industry fees that exceed the operating costs.





Labor and Industry

The Division of Labor and Industry protects and promotes the health, safety and employment rights of Maryland citizens. The major components of the Division include Maryland Occupational Safety and Health (MOSH), Safety Inspection, Prevailing Wage and Employment Standards.

- The **Safety Inspection Program** conducts inspections related to Elevators, Boilers and Amusement Rides ensuring that they are installed, maintained and operated in accordance with the regulations and law. The **Railroad Safety and Health Unit** conducts safety inspections in the critical areas of track safety, motive power and equipment, and operating practices.
- **Maryland Occupational Safety and Health (MOSH)** protects Maryland workers by inspecting workplaces; offers employers free consultation surveys as well as educational and training programs.
- Labor and Industry's MOSH **provided 15,981 hours of training** for businesses throughout the State of Maryland.
- Labor and Industry's MOSH is working in partnership with various interested individuals, organizations and employers to meet the challenge of ensuring the safety and health of the rapidly growing non-English speaking workforce. This focus on immigrant and Hispanic worker safety continues with the release of the **"Take 5 for Safety CD"**, a Hispanic worker safety initiative.
- MOSH continues to aggressively expand the **Cooperative Compliance Partnership (CCP)** program, which improves workplace safety through collaborative partnerships. The CCP currently has 14 active sites with over \$1 billion in total

projects covered. The expansion of this program will continue with an increased emphasis on residential construction.

- The safety and health training seminars for employers will continue, including an increased focus on **teen worker safety** outreach programs.
- The Office of **Employment Standards** oversees the enforcement and administration of the Wage Payment and Collection law and oversees the issuance of work permits for minors. In Fiscal Year 2005, the Office **recovered over \$315,000 of wages** on behalf of Maryland citizens.
- The Office of **Prevailing Wage** determines the prevailing hourly wage for the same or similar work required to execute a State-funded construction contract and ensures that proper wages are being paid. The Office **recovered \$696,750 of wages** on behalf of Maryland citizens during Fiscal Year 2005.

Occupational and Professional Licensing

The Division of Occupational and Professional Licensing, working in concert with **19 licensing boards** appointed by the Governor, is responsible for **licensing and regulating the activities of over 210,000 individuals**, corporations and partnerships. Through its oversight of **twenty-one occupations and professions**, the Division protects the public by assuring that licensees have met a standard of competence in their chosen profession and by responding to consumer complaints against incompetent or unscrupulous practitioners.

- The **Home Improvement Commission**, **recovered \$3.7 million** (a record level) on behalf of Maryland citizens through settlements, court ordered restitution and payments from the Home Improvement Guaranty fund.
- Through the implementation of **newly granted special fund authority**, the **Real Estate Commission** is working to enhance its regulatory, educational and licensee service activities to address the impact of record levels of real estate transactions and an over 70 percent growth on licensed real estate professionals (**regulates over 50,000 active residential and commercial licensed members**).
- The Division of Occupational and Professional Licensing continues to experience a growth in the number of licensees using the **Electronic Licensing** system. The Division processes over 210,000 licensing applications and license renewals on a biennial basis, with approximately 80 percent of the transactions originated or renewed using the Internet.
- Regulatory activity is concentrated on three primary areas:

- Examinations	20,000
- Licensing	210,000
- Consumer Complaints	4,155

Racing Commission

The Maryland Racing Commission oversees and regulates the thoroughbred and harness horse racing industries in Maryland, including Maryland's off-track betting sites in Frederick, Cecil and Dorchester counties. The Racing Commission requires individuals who actively participate in the racing industry to be licensed, ensures proper distribution of wagering dollars, reviews financial statements of racing associations, and operates its own laboratory to test horses for drugs.

- The horseracing industry is important to the economic well being of the State with over 20,000 horse farms, a total of \$5.2 billion of equine related assets, and \$885 million of equine sales and related expenditures annually in Maryland. The largest single sporting event in Maryland during 2005 was the Preakness Day celebration with 123,000 people in attendance.
- The Maryland Racing Commission continues to perform vital functions in the regulatory process at the thoroughbred and harness tracks operated under its auspices, specifically performing activities to safeguard the participants in racing as well as the betting public. The Racing Commission issued **6,424 thoroughbred licenses** and **2,507 harness licenses** during the past year.
- The Racing Commission laboratory is recognized as an efficient deterrent to the abuse of medications used in race horses. The laboratory analyzes blood and urine samples from horses that compete at Maryland tracks. On a fee basis, the laboratory also performs these same functions on specimens received from racing in Virginia and West Virginia. The laboratory **analyzed 28,864 urine and blood specimens** during 2005.

Unemployment Insurance

The Division of Unemployment Insurance provides temporary, partial wage replacement to individuals who have become unemployed through no fault of their own, helps facilitate their return to work and collects unemployment insurance tax contributions from employers.

- The Division of Unemployment Insurance, during Fiscal Year 2005, **processed claims from 206,545** Maryland citizens, **issued over 2 million checks** and **distributed over \$416 million in benefits** to qualified unemployed workers. In addition, **\$515.6 million in taxes was collected** from Maryland employers to fund benefits and to maintain a stable "Trust Fund" to pay for these and future benefits.

- The **Maryland Unemployment Insurance Program** is currently **ranked as a top performer** by the United States Department of Labor, in terms of accuracy and timeliness of its benefits, tax and appeals functions. The State of Maryland was commended once again for **exceeding all performance levels established by the United States Department of Labor**.
- Representatives from the Division of Unemployment Insurance are an integral part of the **Maryland Unemployment Insurance Task Force**, which successfully re-engineered the taxing and surcharge mechanisms of the Unemployment Insurance Trust Fund and secured passage of a benefit increase for unemployed workers.
- The solvency of the **Unemployment Insurance Trust Fund** continues to be an important issue for the UI Division. The Unemployment Insurance Task Force with representatives from the Legislature, Business, Labor and the Department of Labor, Licensing and Regulation continues to work to improve the financial solvency of the UI Trust Fund and benefit coverage for Maryland's unemployed workers. The **"Trust Fund" balance as of September 30, 2005 was \$883,458,230**.
- Maryland continues to serve as the "host state" for the **Information Technology Support Center (ITSC)**, funded by the United States Department of Labor, as the national center for unemployment insurance automation projects. ITSC automation projects bring approximately \$10 million of business to Maryland each year.

Workforce Development

The Division of Workforce Development maintains and develops Maryland's workforce by overseeing training programs, assisting individuals in job searches and reporting on the needs and demands of the labor market.

- The Division of Workforce Development received \$1,237,500 in **Base Realignment and Closure (BRAC)** planning funds from the United States Department of Labor for approved projects that address both expansion and downsized base realignment. There is the potential of as many as **40,000 to 60,000 high technology jobs** coming to Maryland over the next four to six years.
- An **Ex-Offender Re-Entry Program** is being implemented, in conjunction with the Maryland Department of Public Safety and Correctional Services, to improve the transition of ex-offenders from institutional confinement to the workplace. This project will address barriers to licensure and certification as well as barriers for employment.
- The **Maryland Business Works** program continues to support existing Maryland businesses in the retention and growth of their workforce by providing matching funds to upgrade the skills of currently employed workers. In Fiscal Year 2005, **214 projects** were funded, with training projects in every jurisdiction of the State.

Upgrade training was provided for **2,347 employees** at an average training cost of approximately \$636 per employee (includes \$318 of employer contribution).

- The ***Maryland Workforce Exchange***, a web-based workforce development information, case management and job matching system, is being used in all One-Stop Centers throughout the state and is now available to all Maryland citizens (business community and job seekers) with Internet access. The system includes access to labor market information, job listings, training program information and many business resources in one convenient place.
- The Governor's Workforce Investment Board, **Center for Industry Initiatives**, supported by a \$1 million grant from the United States Department of Labor, continues to guide and monitor the demand-driven, cluster-based industry initiative approach. Maryland's targeted industry clusters include aerospace, bioscience, business services, communications, building, education, finance & insurance, healthcare, hospitality & tourism, information technology, manufacturing, retail, and transportation & warehousing.
- Maryland's innovative approach to nursing shortages, the **"Teach for the Health of It"** initiative which is supported by a \$1.5 million grant from the United States Department of Labor, allowed **58 nurses to obtain credentials to begin teaching** and allowed **157 nurses to upgrade their skills from RN to BSN and BSN to MSN**. An additional **327 healthcare professionals** have also **benefited from the incumbent worker training component**.
- The **ProVet Program** (Promoting Reemployment Opportunities for Veterans) assists service members with healthcare experience successfully transition to civil employment and fill a critical need for healthcare professionals.
- During the past year, the Division has **met and exceeded all 17 federal performance standards** set for its programs. The State of Maryland was recently ranked **Number 1 in the country on five of its assigned measures and in the top ten on three additional measures**. The State of Maryland has for the last three years been one of the few states in the region to receive incentive awards for exceeding its performance requirements.

Program Statistics (July 1, 2004-June 30, 2005)

Job Seekers

- Total Number Served	73,167
- Entered Employment Rate	70%

Apprenticeship Program

- Registered Apprentices	8,183
- New Registrants	3,383
- Participating Employers	2,913
- Occupations Recognized	223

Foreign Labor Certifications (FLC) Completed

- Permanent FLC Applications	12,682
- H2B Temporary FLC Applications	332
▪ H2B Workers Requested	8,014
- H2A Temporary FLC Applications	58
▪ H2A Workers Requested	624

Tax Credit Certifications

- Work Opportunity Tax Credit (WOTC)	9,042
- MD Employment Opportunity (EOC)	1,320
- MD Enterprise Zone	54
- MD Disability Employment	212

Responses to Issues and Recommendations **Identified by Legislative Analyst**

Performance Analysis – Managing for Results

- **Federal Reporting – The Department should discuss how it plans to maintain acceptable submission rates for its reporting requirements.**

The Department draws a distinction between mandated federal reporting and internal program reports. As highlighted by the legislative analyst, the Department has significantly improved the timeliness of its federal grant reporting. The accuracy and timeliness of Federal reporting is an extremely important management function. We thank the legislative analyst for commending the Department for its ability to reverse a past trend and meet the timelines for federal report submissions.

Although the handling of internal management reports is also important, it does not constitute non-compliance with a federal grant requirement. The internal distribution of reports is done to provide managers with additional management tools. Inconsistencies have occurred in the timeliness of reports due to staff turnover. Reports are, however, immediately available upon request. To streamline delivery and ensure timely distribution, the Office of Budget and Fiscal Services is investigating on-demand report generation, which would negate the need for clerical distribution of internal reports.

It should, however, be noted that the timeliness of the internal reports has also shown improvement from the 2002 and 2003 postings, despite the emphasis and marked improvement of the timeliness of the federal reporting.

- **Consumer Complaints / Occupational & Professional Licensing – The Department should discuss why its performance declined on Fiscal Year 2005 and how it will ensure efficiency in the complaint process.**

The decline in these measures can be directly attributed to the growth in the number of complaints in the Division's two largest areas of activity, which together account for more than 87% of all consumer complaints.

	<u>FY 02</u>	<u>FY 03</u>	<u>FY04</u>	<u>FY 05</u>
Home Improvement (MHIC)	2,337	2,505	3,209	3,139
Real Estate (MREC)	357	391	379	488

During this period there was a significant increase in the number of complaints, but no parallel growth in resources to carry the caseload. Unlicensed contractor complaints that have increased to represent 42% of MHIC total complaints, require increased investigative time involving written statements of charges, delivering charging documents to courts and trial attendance as witnesses. A total of 9 investigators continue to handle the MHIC caseload. However, in the last two years two experienced investigators have retired or resigned, replaced by investigators new to the agency. It is expected that two additional experienced investigators will retire between April and June of 2006. This turnover and vacancy period has affected the unit's efficiency. If complaint volumes continue at current levels through Fiscal Years 2006 and 2007, it will be difficult to greatly increase the efficiency measures with the current level of MHIC investigative services.

Historically, the MREC could draw on a pool of five investigators to whom complaints could be assigned. However, the MREC had an extended period where only two investigators were available, only one of which could handle complaints for the western shore counties and Baltimore City. During Fiscal Year 2005 the agency was able to increase the number to three full-time investigators. The move to special funding will enable the MREC to add additional investigative resources during Fiscal Year 2007, which will mitigate caseload volume and move complaints through investigation at a faster rate.

The Division continues to make every effort, in concert with legal services to resolve complaints short of an administrative hearing. Investigators make a concerted effort to resolve MHIC complaints during the investigative phase. In addition, the Office of the Attorney General has an active settlement process in place up until the moment of the administrative hearing for both MREC and MHIC complaints.

- **Customer Satisfaction – The Department should discuss how it uses the results of customer surveys to improve service delivery.**

The Department's management utilizes the results of the customer survey system on both the managerial level and the program level. Survey results, from external as

well as internal customers, are used on an ongoing basis to identify any systemic problems throughout the Department.

Managerial Level: To improve service delivery, DLLR's managers review the survey responses and determine strategies to improve delivery of services in any problematic areas noted in survey results. Customer survey data is discussed as part of the quarterly performance measure/budget meetings between program managers and the Secretary. The survey data is also reviewed during preparation of the annual budget request, specifically the development of the Managing for Results (MFR) information.

Program Level: Management addresses any reoccurring issues, as raised by survey data and customer comments. In some cases if a specific customer is identifiable, the individual concerns are addressed. The customer is contacted and any concerns, issues, or policies are addressed.

Issues

- **Special Funds – The Department should comment on the issues associated with special funded boards and commissions and how it will ensure self-sufficiency and proper documentation of the board's financial activities.**

Due to the large number of programs, the mix of funds and the incurring of costs at three levels-direct, indirect divisional, and indirect departmental, the apportionment of cost among 22 discrete sub programs is necessarily complex. Significant fiscal expertise has been brought to bear over the last two years in key hires both at the Department and Division level. Departmentally, a new Director of the Office of Budget and Fiscal Services (OBFS) and a new Chief of Accounting were appointed. A budget and fiscal officer was also hired for the Division of Occupational and Professional Licensing to provide fiscal management expertise. In addition, the individual hired to be the Director of Cemetery Oversight, a Special Funded Board, is the former Director of the Baltimore City Bureau of the Budget. This individual was responsible for the development and management of the City's \$1.5 billion budget and brings a very high level of fiscal management skill to that Office.

Significant problems with records and data maintenance pre-date this administration. Major errors in Fiscal Years 2000 and 2001 were especially problematic. In the last two years, each distinct special fund established has had clear accounting for revenues and expenditures. Greater use of time sheet documentation of hours spent providing service to a Board is in place. For example, costs attributable to the Office of Legal Services and the Office of Information Technology are now based on time sheet documents showing actual hours attributed to each Board or Commission. Other departmental level services are being spread using the model suggested by the auditors. Fund balance reviews are now conducted regularly by OBFS and Division staff. Any corrections and adjustments are identified and journalized.

During the Fiscal Year 2005 closeout process, a full analysis of special funds was incomplete. Later in Calendar Year 2005 management was able to complete the analysis. With guidance from the General Accounting Division (GAD) the closing package was amended and the funds were properly reverted to the General Fund.

The DLLR Office of Budget and Fiscal Services and Division of Occupational and Professional Licensing have instituted effective corrective procedures. These include daily and monthly review and analysis of special fund revenue, expenditure and fund balance reports.

- **Funding Enhancements for the Horse Racing Industry – The Department should discuss specific improvements to competitiveness that resulted from the financial assistance. Additionally, DLS recommends deleting the funds budgeted for purse enhancements. Any purse enhancements should be considered through legislation, reflecting past practice. The legislation should direct the Department on the specific manner of fund allocation and should identify a fund source, such as lottery over attainment monies.**

Specific identity of the improvements or competitiveness attributable to the supplements is difficult to measure quantitatively. However, increased purse enhancements benefit both the breeding operations and the racing industry in Maryland. Purse enhancements help to provide stability to the breeding and farm industries by improving the overall quality of horses and farm operations, allowing for better breeding stock and more standing foals in the State.

Since the funds are being used to increase the size of the purse, individuals looking to compete would select the race in Maryland if the purse is higher than the same type of race being offered in another state. Furthermore, by increasing the number of starters per race, the amount of money wagered on the race also increases. Therefore, if more money is wagered, the pari-mutuel tax increases, the allocation of the takeout for purse increases, track share of the takeout increases, and bred fund programs increase. Overall, by increasing the size of the purse, Maryland has the opportunity to attract horses that would otherwise look to another racing venue.

Recommended Actions

	<u>Amount</u> <u>Reduction</u>	<u>Position</u> <u>Reduction</u>
1. Delete funding for 13 new positions. The Department is carrying far more vacancies than are necessary to reach its turnover rate. The existing vacancies should be reclassified to meet any additional staffing needs.	\$289,543 GF \$194,936 SF	13.0

DLLR Response: The Department strongly opposes this recommended action.

The new positions include 6 to re-staff the Employment Standards Unit, 1 to add an assistant attorney general to the Prevailing Wage Unit, 5 to fulfill the requirements to license and regulate over 12,000 mortgage loan originators, and 1 to address workload increases within the Real Estate Commission which has experienced a nearly 75% increase in licensees in the period 2001 – 2006. These are extremely important functions within the Department.

The Department requests that it be granted the 13 additional positions rather than try to use existing vacancies to meet these staffing needs. DLLR management is actively working to recruit and fill its existing vacancies, with most of the vacant positions in the areas of safety inspectors, industrial hygienists and licensing inspectors. The recruitment and retention for these positions has traditionally been difficult due to salary levels that are lower than comparable positions in the private sector and other governmental entities. Consequently, the Department has and continues to work to increase the grade levels of these types of positions. Better salary levels will greatly improve our recruitment and retention efforts.

The Department disagrees with the recommendation to delete the funding for these positions. Even if the Department reclassified and transferred existing positions (as recommended) in order to carryout these functions, funding would still be needed to support these specific activities/programs. For example, sufficient Special Funds are available for the 5 additional mortgage loan unit personal and 1 real estate commission staff person. Consequently, the Special Fund Appropriation would still be needed. The General Fund Appropriation for the Employment Standards and Prevailing Wage programs would also be needed to support these activities. Many of the vacant positions within DLLR are supported with federal and/or special funds (General Funds is only 13.4 % of DLLR's budget). Federal and special funding sources could not be used for these two programs.

- | | | |
|--|--|-------------------|
| <p>2. Reduce funds for 8 regular full-time equivalent positions that have been vacant for over 18 months. The following PINs have been vacant for 19 – 24 months: 073673 and 051534. The following PINs have been vacant for over 24 months: 033053, 033234, 033084, 033106, 033110 and 033228.</p> | <p>\$264,114 SF
\$143,242 FF</p> | <p>8.0</p> |
|--|--|-------------------|

DLLR Response: The Department strongly opposes this recommended action.

Recruitment actions are already underway to fill the 5 Industrial Hygienist positions (033234, 033084, 033106, 033228 and 033110). The Department is seeking approval of a two-grade salary increase for these positions, and it is anticipated that these positions will be filled by July 1, 2006. The lower salary level has been a major factor affecting our ability to promptly fill these positions in the past. In addition, these positions fulfill a minimum benchmark requirement under the federally approved Maryland Occupational Safety and Health Plan. Funding for these

positions is 50 percent Federal dollars that mandates a 50 percent State match. Special funds provided from the Worker's Compensation Program are available to meet this matching requirement.

Recruitment actions are also underway for the Railroad Inspector position (073673). Applications have been received from several qualified candidates and the position should be filled within the next two months. An offer has recently been made to a qualified candidate for the Elevator Inspector position (051534) and it is anticipated that this position will be filled within the next month.

Finally, the Department is in the process of recruiting for the Administrative Officer position (033053) and expects to have it filled by May 1, 2006. This is an important administrative budget position that needs to be maintained.

- 3. Delete funds for purse enhancements in the Horse Racing Commission. Department of Legislative Services recommends that the legislation be considered to divert lottery over-attainment funds up to \$10 million for this purpose. \$10,000,000 GF**

DLLR Response: The Department strongly opposes this recommended action.

- 4. Reduce funds for additional contractual staff from the Unemployment Insurance Division. The Department expects that there will be no increase in workload, and, therefore, additional staff is not warranted. \$328,641 FF**

DLLR Response: The Department strongly opposes this recommended action.

The request for additional funds should be retained because economic indicators predict an upturn in unemployment in late calendar year 2006. These federally funded positions would only be filled if needed, and would be based on any additional workload requirements. Additional federal dollars are provided to the States by the United States Department of Labor for work performed over and above the annual "base estimate" which is always lower than actual workload. Additionally, the additional \$2 million of Trade Act funding in the Division's budget will generate a commensurate increase in staff workload and usage. This increased workload may necessitate the filling of some or all of the additional temporary positions.

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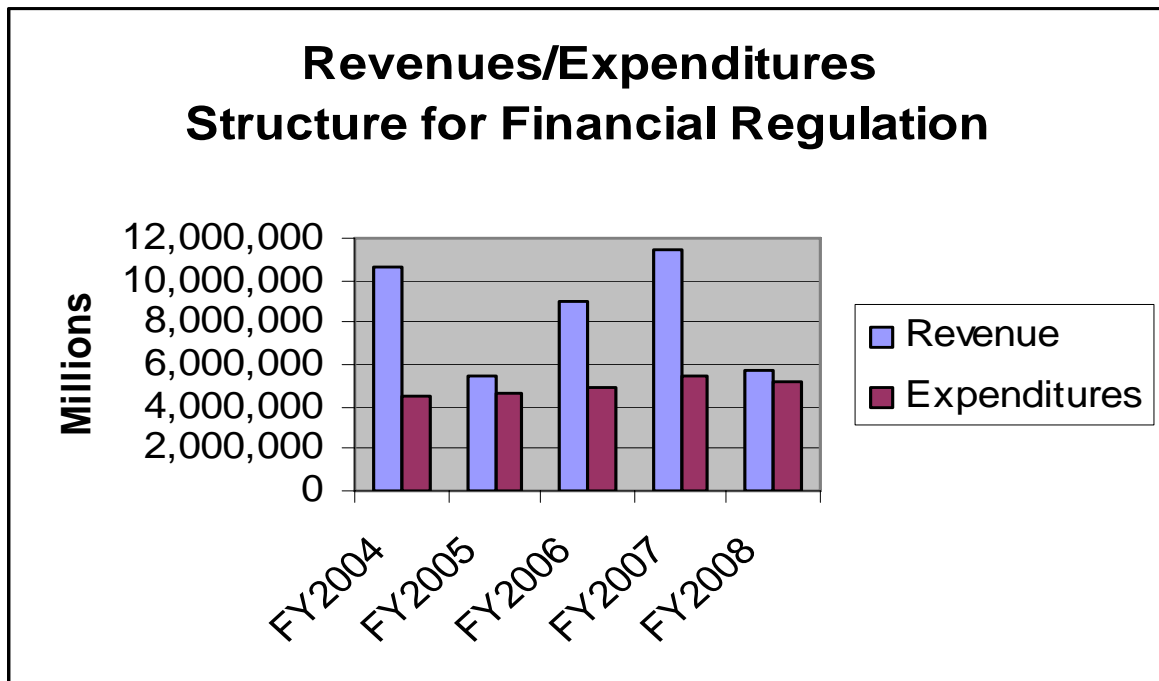
Financial Regulation

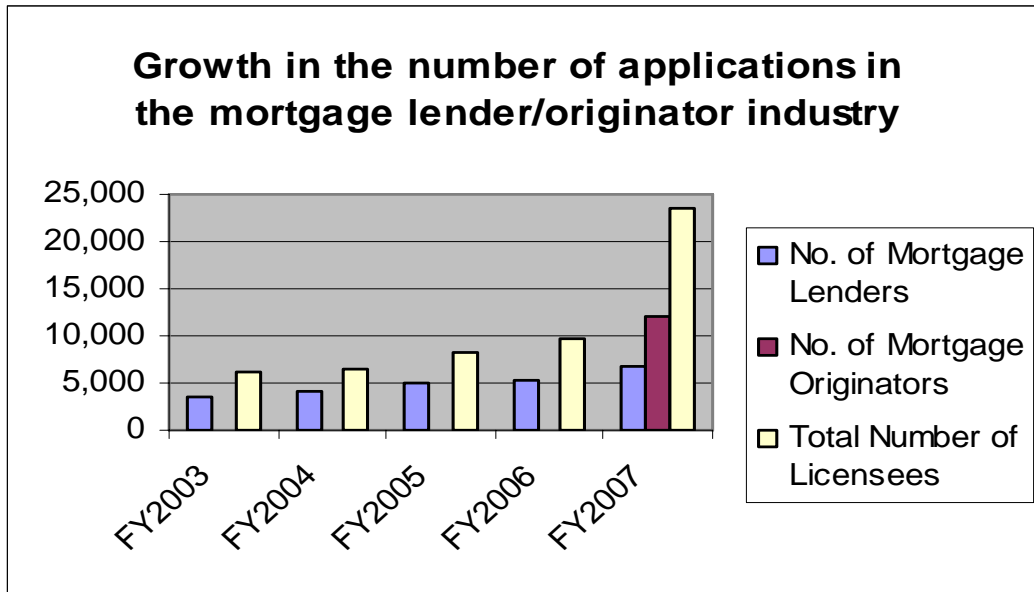
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 - **98% of the banks** examined by the Office received a performance **rating of strong or satisfactory**.
 - **Total assets of State-chartered banks increased from \$33.3 billion to \$37.2 billion.**
- The Division of Financial Regulation has begun to implement the “**Mortgage Originator Law**” which became effective on October 1, 2005. The Mortgage Originator Bill, through newly granted special fund authority, requires the Commissioner of Financial Regulation to **license and regulate over 12,000 mortgage loan officers** throughout the State. The Division received eight additional positions in Fiscal Year 2006 to begin implementing the Mortgage Originator Law.

The Commissioner's Office is a self-supporting unit of State Government. Although the Office receives a general fund appropriation, its programs generate industry fees that exceed the operating costs.





Labor and Industry

The Division of Labor and Industry protects and promotes the health, safety and employment rights of Maryland citizens. The major components of the Division include Maryland Occupational Safety and Health (MOSH), Safety Inspection, Prevailing Wage and Employment Standards.

- The **Safety Inspection Program** conducts inspections related to Elevators, Boilers and Amusement Rides ensuring that they are installed, maintained and operated in accordance with the regulations and law. The **Railroad Safety and Health Unit** conducts safety inspections in the critical areas of track safety, motive power and equipment, and operating practices.
- **Maryland Occupational Safety and Health (MOSH)** protects Maryland workers by inspecting workplaces; offers employers free consultation surveys as well as educational and training programs.
- Labor and Industry's MOSH **provided 15,981 hours of training** for businesses throughout the State of Maryland.
- Labor and Industry's MOSH is working in partnership with various interested individuals, organizations and employers to meet the challenge of ensuring the safety and health of the rapidly growing non-English speaking workforce. This focus on immigrant and Hispanic worker safety continues with the release of the **"Take 5 for Safety CD"**, a Hispanic worker safety initiative.
- MOSH continues to aggressively expand the **Cooperative Compliance Partnership (CCP)** program, which improves workplace safety through collaborative partnerships. The CCP currently has 14 active sites with over \$1 billion in total

projects covered. The expansion of this program will continue with an increased emphasis on residential construction.

- The safety and health training seminars for employers will continue, including an increased focus on **teen worker safety** outreach programs.
- The Office of **Employment Standards** oversees the enforcement and administration of the Wage Payment and Collection law and oversees the issuance of work permits for minors. In Fiscal Year 2005, the Office **recovered over \$315,000 of wages** on behalf of Maryland citizens.
- The Office of **Prevailing Wage** determines the prevailing hourly wage for the same or similar work required to execute a State-funded construction contract and ensures that proper wages are being paid. The Office **recovered \$696,750 of wages** on behalf of Maryland citizens during Fiscal Year 2005.

Occupational and Professional Licensing

The Division of Occupational and Professional Licensing, working in concert with **19 licensing boards** appointed by the Governor, is responsible for **licensing and regulating the activities of over 210,000 individuals**, corporations and partnerships. Through its oversight of **twenty-one occupations and professions**, the Division protects the public by assuring that licensees have met a standard of competence in their chosen profession and by responding to consumer complaints against incompetent or unscrupulous practitioners.

- The **Home Improvement Commission**, **recovered \$3.7 million** (a record level) on behalf of Maryland citizens through settlements, court ordered restitution and payments from the Home Improvement Guaranty fund.
- Through the implementation of **newly granted special fund authority**, the **Real Estate Commission** is working to enhance its regulatory, educational and licensee service activities to address the impact of record levels of real estate transactions and an over 70 percent growth on licensed real estate professionals (**regulates over 50,000 active residential and commercial licensed members**).
- The Division of Occupational and Professional Licensing continues to experience a growth in the number of licensees using the **Electronic Licensing** system. The Division processes over 210,000 licensing applications and license renewals on a biennial basis, with approximately 80 percent of the transactions originated or renewed using the Internet.
- Regulatory activity is concentrated on three primary areas:
 - Examinations 20,000
 - Licensing 210,000
 - Consumer Complaints 4,155

Racing Commission

The Maryland Racing Commission oversees and regulates the thoroughbred and harness horse racing industries in Maryland, including Maryland's off-track betting sites in Frederick, Cecil and Dorchester counties. The Racing Commission requires individuals who actively participate in the racing industry to be licensed, ensures proper distribution of wagering dollars, reviews financial statements of racing associations, and operates its own laboratory to test horses for drugs.

- The horseracing industry is important to the economic well being of the State with over 20,000 horse farms, a total of \$5.2 billion of equine related assets, and \$885 million of equine sales and related expenditures annually in Maryland. The largest single sporting event in Maryland during 2005 was the Preakness Day celebration with 123,000 people in attendance.
- The Maryland Racing Commission continues to perform vital functions in the regulatory process at the thoroughbred and harness tracks operated under its auspices, specifically performing activities to safeguard the participants in racing as well as the betting public. The Racing Commission issued **6,424 thoroughbred licenses** and **2,507 harness licenses** during the past year.
- The Racing Commission laboratory is recognized as an efficient deterrent to the abuse of medications used in race horses. The laboratory analyzes blood and urine samples from horses that compete at Maryland tracks. On a fee basis, the laboratory also performs these same functions on specimens received from racing in Virginia and West Virginia. The laboratory **analyzed 28,864 urine and blood specimens** during 2005.

Unemployment Insurance

The Division of Unemployment Insurance provides temporary, partial wage replacement to individuals who have become unemployed through no fault of their own, helps facilitate their return to work and collects unemployment insurance tax contributions from employers.

- The Division of Unemployment Insurance, during Fiscal Year 2005, **processed claims from 206,545** Maryland citizens, **issued over 2 million checks** and **distributed over \$416 million in benefits** to qualified unemployed workers. In addition, **\$515.6 million in taxes was collected** from Maryland employers to fund benefits and to maintain a stable "Trust Fund" to pay for these and future benefits.
- The **Maryland Unemployment Insurance Program** is currently **ranked as a top performer** by the United States Department of Labor, in terms of accuracy and timeliness of its benefits, tax and appeals functions. The State of Maryland was

commended once again for **exceeding all performance levels established by the United States Department of Labor.**

- Representatives from the Division of Unemployment Insurance are an integral part of the **Maryland Unemployment Insurance Task Force**, which successfully re-engineered the taxing and surcharge mechanisms of the Unemployment Insurance Trust Fund and secured passage of a benefit increase for unemployed workers.
- The solvency of the **Unemployment Insurance Trust Fund** continues to be an important issue for the UI Division. The Unemployment Insurance Task Force with representatives from the Legislature, Business, Labor and the Department of Labor, Licensing and Regulation continues to work to improve the financial solvency of the UI Trust Fund and benefit coverage for Maryland's unemployed workers. The **"Trust Fund" balance as of September 30, 2005 was \$883,458,230.**
- Maryland continues to serve as the "host state" for the **Information Technology Support Center (ITSC)**, funded by the United States Department of Labor, as the national center for unemployment insurance automation projects. ITSC automation projects bring approximately \$10 million of business to Maryland each year.

Workforce Development

The Division of Workforce Development maintains and develops Maryland's workforce by overseeing training programs, assisting individuals in job searches and reporting on the needs and demands of the labor market.

- The Division of Workforce Development received \$1,237,500 in **Base Realignment and Closure (BRAC)** planning funds from the United States Department of Labor for approved projects that address both expansion and downsized base realignment. There is the potential of as many as **40,000 to 60,000 high technology jobs** coming to Maryland over the next four to six years.
- An **Ex-Offender Re-Entry Program** is being implemented, in conjunction with the Maryland Department of Public Safety and Correctional Services, to improve the transition of ex-offenders from institutional confinement to the workplace. This project will address barriers to licensure and certification as well as barriers for employment.
- The **Maryland Business Works** program continues to support existing Maryland businesses in the retention and growth of their workforce by providing matching funds to upgrade the skills of currently employed workers. In Fiscal Year 2005, **214 projects** were funded, with training projects in every jurisdiction of the State. Upgrade training was provided for **2,347 employees** at an average training cost of approximately \$636 per employee (includes \$318 of employer contribution).

- The ***Maryland Workforce Exchange***, a web-based workforce development information, case management and job matching system, is being used in all One-Stop Centers throughout the state and is now available to all Maryland citizens (business community and job seekers) with Internet access. The system includes access to labor market information, job listings, training program information and many business resources in one convenient place.
- The Governor's Workforce Investment Board, **Center for Industry Initiatives**, supported by a \$1 million grant from the United States Department of Labor, continues to guide and monitor the demand-driven, cluster-based industry initiative approach. Maryland's targeted industry clusters include aerospace, bioscience, business services, communications, building, education, finance & insurance, healthcare, hospitality & tourism, information technology, manufacturing, retail, and transportation & warehousing.
- Maryland's innovative approach to nursing shortages, the **"Teach for the Health of It"** initiative which is supported by a \$1.5 million grant from the United States Department of Labor, allowed **58 nurses to obtain credentials to begin teaching** and allowed **157 nurses to upgrade their skills from RN to BSN and BSN to MSN**. An additional **327 healthcare professionals** have also **benefited from the incumbent worker training component**.
- The **ProVet Program** (Promoting Reemployment Opportunities for Veterans) assists service members with healthcare experience successfully transition to civil employment and fill a critical need for healthcare professionals.
- During the past year, the Division has **met and exceeded all 17 federal performance standards** set for its programs. The State of Maryland was recently ranked **Number 1 in the country on five of its assigned measures and in the top ten on three additional measures**. The State of Maryland has for the last three years been one of the few states in the region to receive incentive awards for exceeding its performance requirements.

Program Statistics (July 1, 2004-June 30, 2005)

Job Seekers

- Total Number Served	73,167
- Entered Employment Rate	70%

Apprenticeship Program

- Registered Apprentices	8,183
- New Registrants	3,383
- Participating Employers	2,913
- Occupations Recognized	223

Foreign Labor Certifications (FLC) Completed

- Permanent FLC Applications	12,682
- H2B Temporary FLC Applications	332
▪ H2B Workers Requested	8,014

- H2A Temporary FLC Applications	58
▪ H2A Workers Requested	624

Tax Credit Certifications

- Work Opportunity Tax Credit (WOTC)	9,042
- MD Employment Opportunity (EOC)	1,320
- MD Enterprise Zone	54
- MD Disability Employment	212

Responses to Issues and Recommendations **Identified by Legislative Analyst**

Performance Analysis – Managing for Results

- **Federal Reporting – The Department should discuss how it plans to maintain acceptable submission rates for its reporting requirements.**

The Department draws a distinction between mandated federal reporting and internal program reports. As highlighted by the legislative analyst, the Department has significantly improved the timeliness of its federal grant reporting. The accuracy and timeliness of Federal reporting is an extremely important management function. We thank the legislative analyst for commending the Department for its ability to reverse a past trend and meet the timelines for federal report submissions.

Although the handling of internal management reports is also important, it does not constitute non-compliance with a federal grant requirement. The internal distribution of reports is done to provide managers with additional management tools. Inconsistencies have occurred in the timeliness of reports due to staff turnover. Reports are, however, immediately available upon request. To streamline delivery and ensure timely distribution, the Office of Budget and Fiscal Services is investigating on-demand report generation, which would negate the need for clerical distribution of internal reports.

It should, however, be noted that the timeliness of the internal reports has also shown improvement from the 2002 and 2003 postings, despite the emphasis and marked improvement of the timeliness of the federal reporting.

- **Consumer Complaints / Occupational & Professional Licensing – The Department should discuss why its performance declined on Fiscal Year 2005 and how it will ensure efficiency in the complaint process.**

The decline in these measures can be directly attributed to the growth in the number of complaints in the Division's two largest areas of activity, which together account for more than 87% of all consumer complaints.

	<u>FY 02</u>	<u>FY 03</u>	<u>FY04</u>	<u>FY 05</u>
Home Improvement (MHIC)	2,337	2,505	3,209	3,139
Real Estate (MREC)	357	391	379	488

During this period there was a significant increase in the number of complaints, but no parallel growth in resources to carry the caseload. Unlicensed contractor complaints that have increased to represent 42% of MHIC total complaints, require increased investigative time involving written statements of charges, delivering charging documents to courts and trial attendance as witnesses. A total of 9 investigators continue to handle the MHIC caseload. However, in the last two years two experienced investigators have retired or resigned, replaced by investigators new to the agency. It is expected that two additional experienced investigators will retire between April and June of 2006. This turnover and vacancy period has affected the unit's efficiency. If complaint volumes continue at current levels through Fiscal Years 2006 and 2007, it will be difficult to greatly increase the efficiency measures with the current level of MHIC investigative services.

Historically, the MREC could draw on a pool of five investigators to whom complaints could be assigned. However, the MREC had an extended period where only two investigators were available, only one of which could handle complaints for the western shore counties and Baltimore City. During Fiscal Year 2005 the agency was able to increase the number to three full-time investigators. The move to special funding will enable the MREC to add additional investigative resources during Fiscal Year 2007, which will mitigate caseload volume and move complaints through investigation at a faster rate.

The Division continues to make every effort, in concert with legal services to resolve complaints short of an administrative hearing. Investigators make a concerted effort to resolve MHIC complaints during the investigative phase. In addition, the Office of the Attorney General has an active settlement process in place up until the moment of the administrative hearing for both MREC and MHIC complaints.

➤ **Customer Satisfaction – The Department should discuss how it uses the results of customer surveys to improve service delivery.**

The Department's management utilizes the results of the customer survey system on both the managerial level and the program level. Survey results, from external as well as internal customers, are used on an ongoing basis to identify any systemic problems throughout the Department.

Managerial Level: To improve service delivery, DLLR's managers review the survey responses and determine strategies to improve delivery of services in any problematic areas noted in survey results. Customer survey data is discussed as part of the quarterly performance measure/budget meetings between program managers and the Secretary. The survey data is also reviewed during preparation of the annual

budget request, specifically the development of the Managing for Results (MFR) information.

Program Level: Management addresses any reoccurring issues, as raised by survey data and customer comments. In some cases if a specific customer is identifiable, the individual concerns are addressed. The customer is contacted and any concerns, issues, or policies are addressed.

Issues

- **Special Funds – The Department should comment on the issues associated with special funded boards and commissions and how it will ensure self-sufficiency and proper documentation of the board’s financial activities.**

Due to the large number of programs, the mix of funds and the incurring of costs at three levels-direct, indirect divisional, and indirect departmental, the apportionment of cost among 22 discrete sub programs is necessarily complex. Significant fiscal expertise has been brought to bear over the last two years in key hires both at the Department and Division level. Departmentally, a new Director of the Office of Budget and Fiscal Services (OBFS) and a new Chief of Accounting were appointed. A budget and fiscal officer was also hired for the Division of Occupational and Professional Licensing to provide fiscal management expertise. In addition, the individual hired to be the Director of Cemetery Oversight, a Special Funded Board, is the former Director of the Baltimore City Bureau of the Budget. This individual was responsible for the development and management of the City’s \$1.5 billion budget and brings a very high level of fiscal management skill to that Office.

Significant problems with records and data maintenance pre-date this administration. Major errors in Fiscal Years 2000 and 2001 were especially problematic. In the last two years, each distinct special fund established has had clear accounting for revenues and expenditures. Greater use of time sheet documentation of hours spent providing service to a Board is in place. For example, costs attributable to the Office of Legal Services and the Office of Information Technology are now based on time sheet documents showing actual hours attributed to each Board or Commission. Other departmental level services are being spread using the model suggested by the auditors. Fund balance reviews are now conducted regularly by OBFS and Division staff. Any corrections and adjustments are identified and journalized.

During the Fiscal Year 2005 closeout process, a full analysis of special funds was incomplete. Later in Calendar Year 2005 management was able to complete the analysis. With guidance from the General Accounting Division (GAD) the closing package was amended and the funds were properly reverted to the General Fund.

The DLLR Office of Budget and Fiscal Services and Division of Occupational and Professional Licensing have instituted effective corrective procedures. These include

daily and monthly review and analysis of special fund revenue, expenditure and fund balance reports.

- **Funding Enhancements for the Horse Racing Industry – The Department should discuss specific improvements to competitiveness that resulted from the financial assistance. Additionally, DLS recommends deleting the funds budgeted for purse enhancements. Any purse enhancements should be considered through legislation, reflecting past practice. The legislation should direct the Department on the specific manner of fund allocation and should identify a fund source, such as lottery over attainment monies.**

Specific identity of the improvements or competitiveness attributable to the supplements is difficult to measure quantitatively. However, increased purse enhancements benefit both the breeding operations and the racing industry in Maryland. Purse enhancements help to provide stability to the breeding and farm industries by improving the overall quality of horses and farm operations, allowing for better breeding stock and more standing foals in the State.

Since the funds are being used to increase the size of the purse, individuals looking to compete would select the race in Maryland if the purse is higher than the same type of race being offered in another state. Furthermore, by increasing the number of starters per race, the amount of money wagered on the race also increases. Therefore, if more money is wagered, the pari-mutuel tax increases, the allocation of the takeout for purse increases, track share of the takeout increases, and bred fund programs increase. Overall, by increasing the size of the purse, Maryland has the opportunity to attract horses that would otherwise look to another racing venue.

Recommended Actions

	<u>Amount</u> <u>Reduction</u>	<u>Position</u> <u>Reduction</u>
1. Delete funding for 13 new positions. The Department is carrying far more vacancies than are necessary to reach its turnover rate. The existing vacancies should be reclassified to meet any additional staffing needs.	\$289,543 GF \$194,936 SF	13.0

DLLR Response: The Department strongly opposes this recommended action.

The new positions include 6 to re-staff the Employment Standards Unit, 1 to add an assistant attorney general to the Prevailing Wage Unit, 5 to fulfill the requirements to license and regulate over 12,000 mortgage loan originators, and 1 to address workload increases within the Real Estate Commission which has experienced a nearly 75% increase in licensees in the period 2001 – 2006. These are extremely important functions within the Department.

The Department requests that it be granted the 13 additional positions rather than try to use existing vacancies to meet these staffing needs. DLLR management is actively working to recruit and fill its existing vacancies, with most of the vacant positions in the areas of safety inspectors, industrial hygienists and licensing inspectors. The recruitment and retention for these positions has traditionally been difficult due to salary levels that are lower than comparable positions in the private sector and other governmental entities. Consequently, the Department has and continues to work to increase the grade levels of these types of positions. Better salary levels will greatly improve our recruitment and retention efforts.

The Department disagrees with the recommendation to delete the funding for these positions. Even if the Department reclassified and transferred existing positions (as recommended) in order to carryout these functions, funding would still be needed to support these specific activities/programs. For example, sufficient Special Funds are available for the 5 additional mortgage loan unit personal and 1 real estate commission staff person. Consequently, the Special Fund Appropriation would still be needed. The General Fund Appropriation for the Employment Standards and Prevailing Wage programs would also be needed to support these activities. Many of the vacant positions within DLLR are supported with federal and/or special funds (General Funds is only 13.4 % of DLLR's budget). Federal and special funding sources could not be used for these two programs.

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|--|--|-------------------|
| <p>2. Reduce funds for 8 regular full-time equivalent positions that have been vacant for over 18 months. The following PINs have been vacant for 19 – 24 months: 073673 and 051534. The following PINs have been vacant for over 24 months: 033053, 033234, 033084, 033106, 033110 and 033228.</p> | <p>\$264,114 SF
\$143,242 FF</p> | <p>8.0</p> |
|--|--|-------------------|

DLLR Response: The Department strongly opposes this recommended action.

Recruitment actions are already underway to fill the 5 Industrial Hygienist positions (033234, 033084, 033106, 033228 and 033110). The Department is seeking approval of a two-grade salary increase for these positions, and it is anticipated that these positions will be filled by July 1, 2006. The lower salary level has been a major factor affecting our ability to promptly fill these positions in the past. In addition, these positions fulfill a minimum benchmark requirement under the federally approved Maryland Occupational Safety and Health Plan. Funding for these positions is 50 percent Federal dollars that mandates a 50 percent State match. Special funds provided from the Worker's Compensation Program are available to meet this matching requirement.

Recruitment actions are also underway for the Railroad Inspector position (073673). Applications have been received from several qualified candidates and the position should be filled within the next two months. An offer has recently been made to a

qualified candidate for the Elevator Inspector position (051534) and it is anticipated that this position will be filled within the next month.

Finally, the Department is in the process of recruiting for the Administrative Officer position (033053) and expects to have it filled by May 1, 2006. This is an important administrative budget position that needs to be maintained.

3. **Delete funds for purse enhancements in the Horse Racing Commission. Department of Legislative Services recommends that the legislation be considered to divert lottery over-attainment funds up to \$10 million for this purpose. \$10,000,000 GF**

DLLR Response: The Department strongly opposes this recommended action.

4. **Reduce funds for additional contractual staff from the Unemployment Insurance Division. The Department expects that there will be no increase in workload, and, therefore, additional staff is not warranted. \$328,641 FF**

DLLR Response: The Department strongly opposes this recommended action.

The request for additional funds should be retained because economic indicators predict an upturn in unemployment in late calendar year 2006. These federally funded positions would only be filled if needed, and would be based on any additional workload requirements. Additional federal dollars are provided to the States by the United States Department of Labor for work performed over and above the annual "base estimate" which is always lower than actual workload. Additionally, the additional \$2 million of Trade Act funding in the Division's budget will generate a commensurate increase in staff workload and usage. This increased workload may necessitate the filling of some or all of the additional temporary positions.